CONTRACTS—ACCORD AND SATISFACTION.—Defendant had given to the plaintiff several promissory notes in payment of a debt. Some of the notes had been paid, leaving an undisputed balance of about $300, for which suit was begun. Defendant's father, acting on his son's request, and, as admitted by an affidavit of the father, as agent of the son, made an agreement with the plaintiff whereby the debt was discharged on the payment by the father of $125. *Held,* that such settlement was by a volunteer and therefore a good consideration for the release of the balance. *Cunningham* v. *Irwin* (Mich. 1914) 148 N. W. 786.

The whole question here turned, of course, on the question whether the father was a stranger to the transaction or an agent of the son. The court held that the evidence proved the former, but it would seem that their decision was based as much on a desire to avoid the harsh doctrine of the common law as on the facts of the case. In the Report of Commissioner of Civil Code of New York (1865) 219, it is said, "this rule of the common law is not founded on natural justice nor can it be supported upon any other than technical grounds." POLLOCK, CONTRACTS, says, p. 210, "that nothing less than a release under seal will make the acceptance of 99 £. on a debt of 100 £. valid, while the acceptance of a peppercorn or beaver hat is a good discharge," but he adds, "that modern decisions have confined this absurdity within the narrowest possible limits." In many states this rule of law has been changed by statute. See Alabama, California, and Georgia Codes and Maine Rev. St. In Mississippi, the rule was abolished by the courts without a statute. *Clayton* v. *Clark,* 74 Miss. 499. Michigan among other states still adheres to the common law doctrine, but as the court in this case remarked in citing from *Tanner* v. *Merrill,* 108 Mich. 58, "as it is rigid and unreasonable and defeats the express intent of the parties, it should not be extended to embrace cases not within the very letter of it." It seems quite clear that the court will not overlook any legitimate means to abrogate the doctrine as far as possible, and any dispute as to facts will, as they were in this case, be construed if possible so as to overcome this harsh rule.

CORPORATIONS—INSOLVENCY—PREFERENCE RIGHTS.—A corporation becoming insolvent, its property was transferred to another corporation which, in consideration for the transfer to it of the old corporation property, assumed the latter's debts and also issued some of its own stock to the stockholders of the old corporation in exchange for their stock in the old corporation. There was, however, no contract of novation between the creditors of the old company and the second corporation. Upon the second corporation becoming insolvent, the creditors of the old corporation brought an action to have the property which formerly belonged to the old corporation applied to the payment of their indebtedness. It was held that they had an equitable right to preference in the distribution of the proceeds from the sale of the property of the old corporation. *Louther* v. *Louther-Kaufmann Oil & Coal Co.* (W. Va. 1914) 66 S. E. 1073.

The decision is based upon the doctrine that the property of an insolvent corporation is a trust fund for creditors and the second

corporation, by a transfer which stripped the old corporation of its property and deprived it of its ability to meet its obligations, was not entitled to protection as a bona fide purchaser for value. A number of cases hold that the property of an insolvent corporation, transferred to another corporation in consideration of the assumption of its debts by the second corporation, constitutes a trust fund for the payment of the creditors of the old corporation. *Cole* v. *Millerton Iron Co.*, 133 N. Y. 164, 30 N. E. 847; *Western N. C. R. Co.* v. *Rollins*, 82 N. C. 523; *Chicago R. I. & P. R. Co.* v. *Howard*, 7 Wall. 392; *Central R. Co.* v. *Paul*, 93 Fed. 878; 1 THOMPSON, CORP., § 375. But the property ceases to be a trust fund when it comes into the hands of a bona fide purchaser for value. *Hurd* v. *N. Y. Commercial Steam Laundry Co.*, 167 N. Y. 87; *McMahon* v. *Morrison*, 16 Ind. 172. The principal case rests upon the assumption that a creditor of the new corporation not being a bona fide purchaser for value, the creditors of the old corporation are entitled to a preference in regard to the property of the old corporation. The case is in accord with *Ex Parte Savings Bank of Rock Hill*, 73 S. C. 393, 53 S. E. 614, but in conflict with *Livingston County Agri. Soc.* v. *Hunter*, 110 Ill. 155, which holds that the creditors of the old corporation are on the same footing with the creditors of the second corporation and are not entitled to preference, and *Wabash, St. Louis & Pac. Ry. Co.* v. *Ham*, 114 U. S. 587, which holds that the bondholders of a railway company which consolidated with other railway companies were not entitled to any lien upon the property formerly belonging to the old railway corporation.

COVENANTS—BUILDING RESTRICTIONS.—A porch three stories in height, with brick and stone pillars twenty inches square, solid brick balustrades at each story, and brick buttresses to the steps, all extending beyond the building line established in all the deeds to lots in a certain subdivision, *held*, to be a violation of the building line restriction. *O'Gallagher* v. *Lockhart*, (Ill. 1914) 105 N. E. 295.

Illinois now has a well defined distinction relative to property appurtenances that will be considered violative of a building restriction. In *Hawes* v. *Favor*, 161 Ill. 440, 43 N. E. 1076, an open porch was held not to be such a violation. Here it was carefully distinguished from a bay window or other substantial annexation. See also *Graham* v. *Hite*, 14 Ky. L. Rep. 502, 93 Ky. 474, 20 S. W. 506. The criterion seems to be whether the structure is solid enough to cut off air and light. Having such a substantiality, it is clearly violative of the restriction. *Sanborn* v. *Rice*, 129 Mass. 387; *Linzee* v. *Mixer*, 101 Mass. 512; *Ogontz Land etc. Co.* v. *Johnson*, 168 Pa. St. 178; *Bagnall* v. *Davies*, 140 Mass. 76; *Manners* v. *Johnson*, 1 Ch. Div. 673; *Moore* v. *Murphy*, 89 Hun. (N. Y.) 175.

EVIDENCE—PAROL EVIDENCE AS TO CHRISTIAN NAME OF GRANTEE.—In an action of ejectment there appeared in the plaintiff's chain of title a deed, conveying the land described in the declaration to "Jesse Beam and ——— Nichols." *Held* parol evidence was admissible to show that A. B. Nichols was the grantee intended in the deed. *Sutherland et al* v. *Gent*, (Va. 1914) 82 S. E. 713.